

Application ser. no. 10/773,068

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REMARKS

1. Applicant thanks the Examiner for his remarks and observations, which have greatly assisted Applicant in responding.

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2. **35 U.S.C. § 112**

Claim 31 is rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Claim 31 is cancelled from the application. The present rejection is therefore deemed overcome.

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3. **35 U.S.C. § 103**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143.

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Claims 1, 3-6, 10-11, 13-16, 20-21, 23-26, and 30-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,918,066 (hereinafter "Dutta") in view of U.S. patent no. 6,185,701 ("Marullo"). To describe the invention more clearly, claim 1 is amended to describe: "wherein said step of applying a browser test script is performed while said first browser program is under development and prior to distribution." Support for the amendment is found in claim 31, now cancelled from the application, and in the specification at ¶¶ 0019 and 0032 of U.S. patent application publication no. 2005/0177597. Claims 11 and 21 are amended in like manner.

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Marullo is directed to testing and verification of web servers and associated web applications. There is no teaching or suggestion in Marullo of using development-stage web browsers in the testing process for the purpose of testing the browser. Dutta describes a method and system for evaluating web applications on different user systems. There is no teaching or suggestion in Dutta of using development-stage web browsers in the testing process for the purpose of testing the browser. Accordingly, because the combination fails to teach or suggest all elements of the independent claims as presently amended, the present rejection is deemed overcome.

10 In view of their dependence from allowable parent claims, the dependent claims are deemed allowable without any separate consideration of their merits. Nevertheless, Applicant provides the following remarks regarding the claims:

Claims 3, 13 and 23:

15 The Examiner relies on Dutta, col. 7, lines 23-25 as teaching "automatically instructing a second browser program to load and render the web pages." Applicant respectfully disagrees. The cited portion of Dutta is directed to browser emulations, rather than browsers. It is well known in the art that a software emulation is a software program that imitates another program. Thus, a browser emulation is not a browser, but a software program that imitates a browser. Because the combination fails to teach or suggest all elements of claims 3, 13 and 23, the present rejection is deemed improper. Thus, even if the parent claims were not allowable the present claims would be allowable.

20 Claims 4, 14 and 24: The Examiner relies on Dutta, col. 8, line 65 to col. 9, line 14 as teaching "wherein one or more errors are detected when the representation of rendering results of the first browser program does not match the representation of rendering results of the second browser." Applicant respectfully disagrees.

25 The cited teaching has nothing to do with errors. What is being described is a scorecard that rates a page's effectiveness according to a plurality of

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performance criteria. While a web page may rank higher or lower, there is no discussion whatsoever of "errors."

Because the combination fails to teach or suggest all elements of claims 4, 14 and 24, the present rejection is deemed improper. Thus, even if the parent claims were not allowable the present claims would be allowable.

Claims 6, 16 and 26:

The Examiner relies on Dutta, col. 8, line 65 to col. 9, line 14 as teaching "wherein the representation of rendering results of the first browser program comprises an internal representation of web page as interpreted by the first browser program." Applicant respectfully disagrees.

As above, the cited portion of Dutta describes a scorecard that rates a page's effectiveness according to a plurality of performance criteria. The cited teaching has nothing to with "a representation of rendering results" or "an internal representation of a web page as interpreted by the first browser program." With respect, Applicant is frankly astonished that the Examiner could possibly equate a rating of a page's effectiveness with "an internal representation of a web page as interpreted by the first browser program."

Because the combination fails to teach or suggest all elements of claims 6, 16 and 26, the present rejection is deemed improper. Thus, even if the parent claims were not allowable the present claims would be allowable.

Claim 31: Claim 31 is cancelled from the application, rendering the present rejection moot.

Claim 32: The Examiner relies on Dutta, col. 7, lines 50-65 as teaching "wherein a rendering of a known browser program is compared with said first browser program to validate, in part, said first browser program." The cited teaching further describes the scorecard discussed above. Thus, what is being described is comparison of scores of a page's effectiveness. Renderings are not being compared.

Because the combination fails to teach or suggest all elements of claim

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32, the present rejection is deemed improper. Thus, even if the parent claims were not allowable, claim 32 would be allowable.

Claims 2, 12 and 22 are rejected as being unpatentable over Dutta in view of Marullo and further in view of Broadwell ("System for Generating Secure Crash Information." In view of the amendments to the independent claims, the present rejection is deemed overcome.

Claims 7, 17, and 27 are rejected as being unpatentable over Dutta in view of Marullo and further in view of Official Notice. In considering the previous rejection of claims 6, 16 and 26, the present rejection appears inconsistent with that finding. Regarding claims 6, 16, 26, the Examiner equates Dutta's scorecard with "an internal representation of a web page." Here, the Examiner finds that the internal representation (scorecard) comprises "attributes of the web page, including:

- a background color;
- a number of columns of a table; and
- a number of rows of a table."

Is it the Examiner's finding that the scorecard includes the attributes mentioned in claims 7, 17 and 27?

Applicant also traverses the Examiner's reliance on Official Notice to supply the teachings in the claimed subject matter not taught or suggested by the combination of Dutta and Marullo. "Assertions of . . . specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art." MPEP § 2144.03. Here, the Examiner, in a Final Rejection, asserts that it is old and well known to include a highly specific assortment of attributes in an internal representation of a web page. Applicant respectfully requests that the Examiner provide documentary support for the finding.

Claims 8, 18 and 28 are rejected as being unpatentable over Dutta in view of U.S. patent application publication no. 2002/0099723 ("Garcia-Chiesa").

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Applicant first notes that the rejection of the parent claim was based on the combination of Dutta and Marullo. In the present rejection, the Examiner omits Marullo and substitutes Garcia-Chiesa. Accordingly, even without further
5 discussion, the present rejection is improper because it omits a reference relied on to remedy Dutta's deficiencies. Thus, the present combination fails to teach or suggest all elements of the claimed invention.

Additionally, although the Examiner appears to rely on Garcia-Chiesa for some teaching, the body of the rejection is silent as to Garcia-Chiesa's
10 contribution to the combination.

Because the combination fails to teach or suggest all elements of claims 8, 18 and 28, the present rejection is deemed improper. Thus, even if the parent claims were not allowable, the present claims would be allowable.

4. The above amendments are made to describe the invention more clearly,
15 in the interest of advancing prosecution of the application. They do not constitute agreement with the Examiner's position, nor do they indicate intention to sacrifice claim scope. Applicant expressly reserves the right to pursue patent protection of a scope it reasonably believes it is entitled to in one or more continuing applications.

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5. For the record, Applicant respectfully traverses any and all factual assertions in the file that are not supported by documentary evidence. Such include assertions based on findings of inherency, assertions based on official notice, and any other assertions of what is well known or commonly known in the
25 prior art.


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CONCLUSION

5 In view of the foregoing, the application is deemed to be in allowable
condition. Applicant therefore requests reconsideration and prompt allowance of
the claims. Should the Examiner have any questions concerning the Application,
he is urged to contact Applicant's attorney at (650) 474-8400.

Respectfully submitted,

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